

[9110-05-P]

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

49 CFR Part 1572

[Docket No. TSA-2006-24191]

Exemption from Transportation Worker Identification Credential (TWIC)

Expiration Provisions for Certain Individuals Who Hold a Valid TWIC

AGENCY: Transportation Security Administration, DHS.

ACTION: Notice of Exemption.

SUMMARY: The Transportation Security Administration (TSA) is granting a temporary exemption from certain TWIC regulations regarding card expiration and replacement requirements. This exemption applies to U.S. nationals¹ who hold a valid TWIC expiring on or before December 31, 2014. The exemption permits eligible TWIC holders to obtain a replacement card that extends the expiration date of their current security threat assessment and TWIC by three years. During 2012, DHS intends to publish a Notice of Proposed Rulemaking (NPRM) to seek comment on card reader requirements and deployment requirement plans. At the end of the three-year extension period, pending the outcome of this rulemaking activity, DHS expects card reader requirements to be in place and readers to be deployed at facilities with the highest risk. This exemption becomes effective August 30, 2012.

FOR FURTHER INFORMATION CONTACT: David Baker, Office of Security Policy and Industry Engagement, TWIC Program Office, TSA-28, Transportation

¹ The term U.S. nationals includes U.S. citizens and noncitizen nationals of the United States.

Security Administration, 601 South 12th Street, Arlington, VA 20598-6028; telephone (571) 227-2659; facsimile (571) 227-1376; e-mail: david.baker1@dhs.gov.

SUPPLEMENTARY INFORMATION: This document grants a temporary exemption to certain TWIC regulations contained at 49 CFR part 1572. The background, purpose, and terms of the exemption are explained below.

Background

The Maritime Transportation Security Act (MTSA) of 2002² and the Security and Accountability for Every Port Act of 2006³ require TSA and the U.S. Coast Guard to establish regulations requiring certain merchant mariners and individuals with unescorted access to secure areas of certain vessels and facilities to undergo a security threat assessment (STA) and receive a biometric credential called the Transportation Worker Identification Credential (TWIC). The STA consists of criminal, immigration and terrorism checks. TSA and the U.S. Coast Guard implemented these requirements in a joint final rulemaking.⁴

TSA is issuing this exemption to give eligible individuals the option to extend for an additional three years their current STAs for five-year TWICs that are set to expire on or before December 31, 2014,⁵ rather than require them to renew the card. Through this notice, we are exempting eligible individuals from 49 CFR 1572.23(a) and (a)(1) and 1572.501(d) of the TWIC regulation. If card holders so choose, they will have the option to renew the card for a full five years, as detailed in the TWIC regulation, codified at 49 CFR 1572.17, 1572.19 and 1572.21. The process for exercising the three-year TWIC

² Pub. L. 107-295, 116 Stat. 2064 (November 25, 2002).

³ Pub. L. 109-347, 120 Stat. 1884 (October 13, 2006).

⁴ Transportation Worker Identification Credential (TWIC) Implementation in the Maritime Sector Final Rule, 72 FR 3492 (January 25, 2007).

extension option will be similar to the card replacement procedures outlined in the TWIC regulation at 49 CFR. 1572.19(f) and 1572.501(d).

Eligible individuals choosing the three-year TWIC extension may obtain it by ordering the credential via telephone, paying a \$60 card replacement fee, and visiting a TWIC enrollment center to pick up and activate the card. For the purposes of this exemption, the three-year TWIC is considered a valid TWIC, in that it can be used to enter maritime facilities and vessels just as the five-year TWIC is used currently. The three-year TWIC will expire three years from the expiration date of the TWIC that is being replaced. Eligible individuals selecting the three-year TWIC option do not have to go through the standard renewal process that includes providing new biometric and biographic information at an enrollment center, new STA, payment of the renewal fee of \$129.75, and a second trip to an enrollment center to retrieve and activate the credential.

This exemption will reduce the burden and cost⁶ associated with obtaining a new TWIC for the majority of individuals holding expiring TWICs, while the U.S. Coast Guard develops the TWIC reader regulation. This exemption (and the option that it will provide to certain TWIC holders with expiring TWICs) and the U.S. Coast Guard TWIC reader rulemaking are part of the Department of Homeland Security's overall proposed effort to ensure that TWIC readers are deployed, through a risk-based approach, to appropriate vessels and facilities throughout the Nation in the coming three-year period.

⁵ 49 CFR 1572.23.

⁶ TSA's OMB control number for the TWIC collection of information is 1652-0047. TSA has updated its Paperwork Reduction Act submission to OMB to reflect the changes in hour and cost burden that will result from the TWIC Exemption. TSA estimates for those eligible individuals who select the three-year TWIC option, the cost and hour burden will be reduced by over 50 percent. This information will be available at www.reginfo.gov.

In particular, over the next three years, during the STA extension period, DHS intends to issue a U.S Coast Guard NPRM and final rulemaking to establish a risk-based reader deployment and implementation schedule. DHS anticipates that the highest risk facilities will be required to implement TWIC card readers prior to the expiration of the TWIC STA extension period detailed in this notice. If a card holder chooses not to exercise this extension, the individual must follow TWIC renewal provisions as specified in the TWIC regulation at 49 CFR 1572.17, 1572.19 and 1572.21. For card holders that opt to follow renewal procedures in the final rule, renewal cards will be valid for five years.

Authority and Determination

TSA may grant an exemption from a regulation if TSA determines that the exemption is in the public interest.⁷ TSA has determined that it is in the public interest to grant an exemption from certain TWIC regulations found at 49 CFR part 1572, described below under “Exemption.” This exemption will contribute to providing safe and efficient transportation while ensuring the efficient use and conservation of the resources of the United States. Due to the fact that readers are not yet required by regulation or in widespread use, we believe the burden associated with the full renewal requirements is not currently justified. The exemption permits eligible individuals to pay lower fees, reduce trips to an enrollment center, and avoid providing new biometric and biographic enrollment information when they request the card. As stated above, this exemption will reduce the burden and cost associated with obtaining a new TWIC for the majority of individuals holding expiring TWICs, without reducing the current benefits of possession of those TWICs, while the U.S. Coast Guard develops the TWIC reader regulation.

⁷ 49 U.S.C. 114(q).

These factors save time and resources for TWIC workers and the government and also facilitate commerce at America's ports, a vital element of the national economy.

Eligibility and Process for Using the Exemption

Individuals are eligible to apply for the three-year TWIC if they are U.S. nationals⁸ and hold a valid TWIC that expires on or before December 31, 2014. Individuals eligible for the three-year TWIC may choose to obtain a five-year TWIC under the current process. All other individuals who are not eligible for the three-year TWIC must obtain or renew a TWIC through the standard renewal process and obtain a five-year TWIC.

Eligible individuals must request a three-year TWIC from TSA. To make this request, individuals should call 1-866-347-8942 (the TWIC Help Desk⁹) to order a three-year TWIC. Individuals must pay the associated \$60 card replacement fee either by credit card over the telephone, or via cashier's check or money order at an enrollment center.¹⁰ The new three-year TWICs will be available within five to ten business days after calling the TWIC Help Desk. Once the card is ready, individuals must make one visit to an enrollment center of their choosing to pick up and activate the three-year TWIC, and present a government-issued photo identification to verify that they are the authorized TWIC holder. This visit to the enrollment center is the only one required; individuals can make an appointment or walk in during normal enrollment center business hours to pick-up and activate the three-year TWIC.

⁸ 8 U.S.C. 1101(a)(22).

⁹ To obtain more information about contacting the TWIC Help Desk and this exemption, visit the TSA website at http://www.tsa.gov/what_we_do/layers/twic/contact.shtm (last visited Apr. 18, 2012).

¹⁰ Please note that because payment must be made in advance of ordering the replacement card, those eligible individuals who choose to pay via cashier's check or money order will have to make a separate trip to the enrollment center to order the card, in addition to visiting the enrollment center to pick-up and activate the three-year TWIC.

All individuals holding a TWIC must continue to comply with all non-exempt requirements of 49 CFR part 1572, including requirements to report disqualifying arrests, convictions or unlawful immigration status. Ports and facility operators do not have to modify current access control procedures to accommodate three-year TWICs. Any facility may use a TWIC reader in conjunction with TSA's Cancelled Card List (CCL) to determine if a five-year or three-year TWIC has been revoked for cause, or reported as lost, stolen or damaged. Industry and law enforcement officials may use a three-year TWIC to verify identity using a TWIC reader, as is currently done with five-year TWICs.

Exemption

Section I – General Exemption

Beginning August 30, 2012, TSA exempts eligible individuals who hold a valid TWIC that expires on or before December 31, 2014, from the requirements of 49 CFR part 1572 described below:

1. Eligible individuals are exempt from 49 CFR 1572.23(a) and may receive a three-year extension of the five-year expiration date of their current TWIC by following the procedures described below in "Approved Procedures." TSA does not exempt individuals from the requirements of 49 CFR 1572.23(a)(2).
2. Eligible individuals whose TWIC was issued based on a comparable threat assessment are exempt from 49 CFR 1572.23(a)(1) and may receive a three-year extension of the expiration date of their current TWIC by following the procedures described below in "Approved Procedures."
3. Eligible individuals are exempt from 49 CFR 1572.501(d) and may replace their five-year TWIC with a three-year TWIC by paying the \$60 card replacement fee

even if their current TWIC has not been lost, stolen or damaged. Individuals may continue to replace a lost, stolen or damaged TWIC pursuant to the requirements in 49 CFR 1572.501(d).

Section II – Approved Procedures

To receive a three-year TWIC, eligible individuals must:

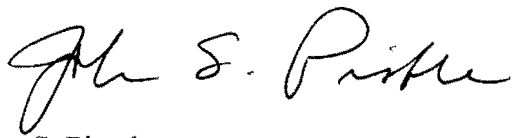
1. Call the TWIC Help Desk (currently 1-866-347-8942) and order a three-year TWIC.¹¹
2. Pay the \$60 card replacement fee.
3. For individuals who became a U.S. national after enrolling for the original five-year TWIC, provide proof of U.S. national status¹² before picking up the three-year TWIC.
4. Visit an enrollment center and present a government-issued photo identification¹³ to activate and pick up the new TWIC.
5. Comply with all non-exempt requirements of 49 CFR part 1572.

¹¹ To obtain more information about contacting the TWIC Help Desk and this exemption, visit the TSA website at http://www.tsa.gov/what_we_do/layers/twic/contact.shtm (last visited Apr. 18, 2012).

¹² The list of acceptable documents that may be used to provide proof of U.S. nationality is located at http://www.tsa.gov/assets/pdf/approved_twic_identification_docs.pdf (last visited May 2, 2012).

¹³ The list of acceptable identification documents is located at http://www.tsa.gov/assets/pdf/approved_twic_identification_docs.pdf.

Issued in Arlington, Virginia, on JUN 15 2006 .

A handwritten signature in black ink, appearing to read "John S. Pistole". The signature is fluid and cursive, with the first name "John" being more prominent than the last name "Pistole".

John S. Pistole,

Administrator.